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New England District

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Concord, MA 01742-2751

# PUBLIC NOTICE

Date: January 22, 2013  
File Number: NAE-2005-1142  
In Reply Refer To: Ruth M. Ladd  
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This public notice is to share with the public the **"STATE OF NEW HAMPSHIRE AQUATIC RESOURCE MITIGATION FUND, RSA Chapter 482A, FISCAL YEAR 2012 REPORT" dated December 6, 2012.** The program, which is an In-lieu Fee (ILF) program, serves as an alternative form of compensation for impacts to aquatic resources authorized by the New England District Army Corps of Engineers (Corps) and/or the State of New Hampshire Department of Environmental Services.

Compensatory mitigation occurs in circumstances where a permittee is required to compensate for the functions and values of aquatic resources lost as a result of the authorization after all efforts are made to avoid and minimize impacts. ILF is an option available to the applicant instead of completing permittee-responsible mitigation. Use of the ILF program is contingent upon Corps and/or State approval.

All ILF agreements in New England are available on the Corps' website:  
<http://www.nae.usace.army.mil/Regulatory/Mitigation/in-lieu.htm>.

  
JENNIFER L. MCCARTHY  
Chief, Regulatory Division

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If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil). You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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STATE OF NEW HAMPSHIRE

*Aquatic Resource Mitigation Fund*  
RSA Chapter 482-A

# ***Fiscal Year 2012 Report***



Water Division/Wetlands Bureau

December 6, 2012

## **Introduction**

Compensation for unavoidable wetland impacts has been a part of the New Hampshire Department of Environmental Services (hereinafter "DES") program since the mid 1980's and now serves as a critical program to address impacts under the federal Clean Water Act (CWA), Sections 401 and 404 which result in the discharge of dredged or filled materials within "waters of the U.S." Under the Corps General Permit for New Hampshire, compensatory mitigation for proposed wetland dredge and fill impacts has been required for projects having more than 10,000 square feet of wetland impact, and for minor projects when deemed appropriate by the Corps, to comply with federal standards. During the 2006 legislative session, the General Court enacted Senate Bill 140, known as Aquatic Resource Compensatory Mitigation Fund (hereinafter "ARM Fund"). These provisions are codified at RSA 482-A:28 through RSA 482-A:33. The law creating the ARM Fund program became effective on August 18, 2006 and DES adopted implementing rules effective on June 20, 2007.

As a result, the ARM Fund has become one of several compensatory mitigation options available to permittees for impacts to wetlands and other aquatic resources. This mitigation option is available for use after avoidance and minimization of impacts to these aquatic resources has been achieved. Although compensatory mitigation is often a requirement in permits, use of the ARM Fund can only occur after the applicant has reviewed other available forms of mitigation in the vicinity and local community. The ARM Fund seeks "no net loss" of aquatic resource acreage and functions using a watershed approach. DES has the authority to collect the funds and they are pooled together according to the Hydrologic Unit Code 8 (HUC 8) watershed level.

## **Program Achievements**

In FY 2012, an agreement was established with the federal agencies noting guidelines, responsibilities and standards for the use, operation and maintenance of the ARM Fund in a way that brings the existing mitigation program into compliance with the Federal "Mitigation Rule." The federal In-lieu Fee (hereinafter "ILF") Instrument establishes DES as the qualified ILF program sponsor and administrator for the ARM Fund program. DES works with the Corps to ensure that requirements for aquatic resource compensation are being met and that it is recognized that ultimately DES is solely responsible for providing compensatory mitigation for projects which have paid into the ARM Fund.

During the 2012 legislative session, the General Court enacted Senate Bill 1380 for a change to RSA 482-A:28 through RSA 482-A:33. The final language provides a change from 16 hydrologic unit code 8 areas where payments can be provided to 9 service areas. The language notes a service area may be a hydrologic unit code 8 watershed, as developed by the United States Geological Survey, or a modification of a hydrologic unit code 8 watershed by the department as approved by the United States Army Corps of Engineers. The following report is based on the new 9 service areas.

## **Permits Issued with ARM Fund as Compensatory Mitigation and ARM Fund Receipts**

The ARM Fund program has been very successful for permit applicants and has resulted in many significant wetland preservation and restoration projects across the state. Table 1 provides a list of the projects permitted from July 1, 2011 to June 30, 2012 where the wetlands permit holders selected payment to the ARM Fund to satisfy compensatory mitigation requirements. In this time period, nine permits with 15.99 acres in cumulative impacts were issued. The ARM Fund received mitigation fees of \$2,428,512. In addition, four projects were issued permit approvals that included an ARM Fund payment as the form of mitigation with estimated total wetland impacts of 3.32 acres and expected ARM Fund compensatory mitigation fees of \$225,010 to be paid in FY 2013.

**TABLE 1. WETLAND PERMITS ISSUED IN FY 2012 WHERE APPLICANT USED ARM FUND FOR COMPENSATORY MITIGATION.**

TOWN/ DES FILE NUMBER	SERVICE AREA	WETLANDS IMPACTS (acres)	ARM FUND REVENUES	PAYMENT DEPOSIT DATE
<b>Bow-Concord/ 2011-922</b>	Merrimack	0.98	\$99,673	August 16, 2011
<b>Groton/ 2010-745</b>	Pemi-Winni	1.65	\$120,000	October 5, 2011
<b>Nashua/ 2010-616</b>	Merrimack	11.63	\$1,925,155	October 17, 2011
<b>Hooksett/ 2010-1370</b>	Merrimack	0.02	\$2,885	October 25, 2011
<b>Warner/ 2011-831</b>	Contoocook	0.03	\$8,445	December 29, 2011
<b>Manchester/ 2011-817</b>	Merrimack	0.37	\$61,683	January 11, 2012
<b>Nashua/ 2011-1261</b>	Merrimack	0.44	\$72,243	January 13, 2012
<b>Keene/ 2011-1637</b>	Lower CT River	0.62	\$108,478	January 18, 2012
<b>Lisbon/ 2010-2887</b>	Middle CT River	0.25	\$29,950	May 16, 2012
<b>TOTALS</b>		<b>15.99</b>	<b>\$2,428,512</b>	

**ARM Fund Disbursements in FY 2012**

The ARM Fund program grants funds to projects involving wetland and/or stream restoration, wetland enhancement, and/or preservation of upland buffers associated with high quality aquatic resources. The ARM Fund has been utilized by projects in several watersheds since the program inception. The projects that were provided payment during FY 2012 are noted in Table 2.

**TABLE 2. ARM FUND DISBURSEMENTS FOR PROJECTS IN FY 2012**

Project Name: Exeter River Water Quality Improvements and Buffer Preservation		
Applicant: Town of Brentwood	Watershed: Salmon Falls – Piscataqua Rivers	Town: Brentwood
ARM Funds Disbursed: \$10,000.00	Matching Funds: \$50,420.00	
<p><b>Description:</b> The Brentwood Conservation Commission will preserve 16 acres of frontage on the Exeter River, and 0.3 acres of riparian enhancement to improve water quality and habitat. The project targets and expands on projects identified in the Exeter River Geomorphic Assessment and Watershed-Based Plan: Middle Exeter River (2010). In that plan, these are Projects #1-3 which include stormwater retrofits, riverbank stabilization, buffer plantings, and conservation easements totaling approximately 16 acres.</p>		

<b>Project Name: Berry Brook Watershed Restoration through Stream Restoration, Buffer Development, and LID Retrofits/</b>		
<b>Applicant:</b> UNH Stormwater Center and City of Dover	<b>Watershed:</b> Salmon Falls – Piscataqua Rivers	<b>Town:</b> Dover
<b>ARM Funds Disbursed:</b> \$330,863.00	<b>Matching Funds:</b> \$198,100.00	
<p><b>Description:</b> The project will significantly restore and reconnect 0.9 miles of 1<sup>st</sup> order stream, Berry Brook to the Cocheco River. The work includes restore/daylight/recreate 1,960 feet of stream channel, remove fish passage barriers, and provide significant treatment of 164 acres of watershed for diadromous fish and other aquatic species. Berry Brook is an urban stream which will be improved through two efforts: 1) Wetland and stream restoration, buffer development and conservation, and 2) Base flow and water quality improvements.</p>		
<b>Project Name: Strolling Woods Conservation Project</b>		
<b>Applicant:</b> City of Franklin	<b>Watershed:</b> Pemigewasset River	<b>Town:</b> Franklin
<b>ARM Funds Disbursed:</b> \$40,000.00	<b>Matching Funds:</b> \$420,172.00	
<p><b>Description:</b> The City of Franklin proposes to restore wetlands, provide water quality improvements to Webster Lake, and conserve a 15 acre parcel that will adjoin a 226 acre parcel recently funded from the NRCS Wetland Reserve Program.</p>		
<b>Project Name: Tioga River Wildlife Conservation Area</b>		
<b>Applicant:</b> Town of Belmont	<b>Watershed:</b> Winnepesaukee River	<b>Town:</b> Belmont
<b>ARM Funds Disbursed:</b> \$28,738.00	<b>Matching Funds:</b> \$4,600.00	
<p><b>Description:</b> The Town of Belmont proposed to eradicate the current infestation of Glossy Buckthorn on the Tioga River Wildlife and Conservation Area. The most significant threat of the invasion is to Prime Wetland 18, one of the highest ranking wetlands in Belmont. Wetland enhancement is within 25 acres of wetland habitat with control methods implemented to eliminate and manage invasive species on the site.</p>		
<b>Project Name: Potter Farm Conservation/Wetland Enhancement Project</b>		
<b>Applicant:</b> Town of Northumberland	<b>Watershed:</b> Upper Connecticut River	<b>Town:</b> Northumberland
<b>ARM Funds Disbursed:</b> \$12,313.00	<b>Matching Funds:</b> \$233,702.00	
<p><b>Description:</b> 326 acre property purchased by The Nature Conservancy for protection and restoration of floodplain forests, maintain agricultural land uses, and protect uplands and rivershore connectivity. The project is an entire ridgeline-to-rivershore swath. This parcel is part of TNC's "Kilkenny Matrix Forest Block", comprising 119,600 acres of unfragmented forest.</p>		
<b>Project Name: Nesenkeag Brook Headwaters Project</b>		
<b>Applicant:</b> Town of Londonderry	<b>Watershed:</b> Merrimack River	<b>Town:</b> Londonderry
<b>ARM Funds Disbursed:</b> \$1,050.00	<b>Matching Funds:</b> \$5,970.00	
<p><b>Description:</b> Used funds to review the hydrologic conditions for future wetland enhancement opportunities. The restoration of the Nesenkeag Brook Headwaters site attempts to return a degraded ecosystem to its natural potential.</p>		

Project Name: Siemon Family Charitable Trust Conservation Land		
Applicant: NH Fish & Game Department	Watershed: Salmon Falls – Piscataqua Rivers	Town: Milton
ARM Funds Disbursed: \$29,300.00	Matching Funds: \$191,800.00	
Description: The NHFG was donated the value of a conservation easement on the 366.1 acres of land with 1.9 miles of riparian corridor along Jones Brook. The funds were used to complete components of the land transaction. The property consists of 44.75 acres of NH Wildlife Action Plan (WAP) Tier 1, Highest Ranked Wildlife Habitat by Ecological Condition in the State; 73.65 acres of WAP Tier 2, Highest Ranked in Biological Region; and 239.23 acres of WAP Supporting Landscape.		
Project Name: Odiorne Point State Park Maritime Cobble Beach and Coastal Salt Pond Marsh Restoration Project		
Applicant: Rockingham County Conservation District	Watershed: Salmon Falls – Piscataqua Rivers	Town: Rye
ARM Funds Disbursed: \$16,286.00	Matching Funds: \$6,100.00	
Description: The Rockingham County Conservation District was awarded \$43,000 for 3.8 acres of restoration and 6.45 acres of enhancement work at the state park. Located at Odiorne Point State Park in Rye NH, the NH Natural Heritage Bureau defines the aforementioned sites as “exemplary natural communities” of which the coastal salt pond marsh is the only one of its kind in the State. These significant habitats are home to two endangered, and two state listed threatened plant species.		
Project Name: River Road Marsh Restoration		
Applicant: New Castle Conservation Commission	Watershed: Salmon Falls – Piscataqua Rivers	Town: New Castle
ARM Funds Disbursed: \$17,441.00	Matching Funds: \$27,250.00	
Description: The New Castle Conservation Commission in partnership with the Rockingham County Conservation District will provide 0.5 acres of salt marsh restoration. Once restored, this wetland is expected to have high wildlife habitat value, sediment retention/ nutrient removal, educational and aesthetic potential.		
Project Name: Evans Mountain		
Applicant: : Town of Strafford and Bear-Paw Regional Greenways	Watershed: Salmon Falls – Piscataqua Rivers	Town: Strafford
ARM Funds Disbursed: \$350,000.00	Matching Funds: \$580,105.00	
Description: The primary goal of the project is to permanently protect the natural resources on the 1,015-acre Evans Mountain property in Strafford. This parcel is part of a 6,000-acre unfragmented forest that includes headwater streams of Bow Lake and the Nippo Brook/Isinglass River in the Salmon Falls - Piscataqua River watershed and the Big River in the Merrimack River watershed, as well as 67 acres of wetlands (almost evenly split between the two watersheds). This project includes a wetland restoration and aquatic resource improvement component which proposes to restore 18 sites covering 7,000 square feet impacted by road building and other activities associated with heavy resource extraction by prior owners.		
Project Name: Colony Project		
Applicant: Monadnock Conservancy	Watershed: Lower CT River	Town: Chesterfield
ARM Funds Disbursed: \$83,467.00	Matching Funds: \$172,487.00	
Description: The Monadnock Conservancy will acquire a conservation easement on 300.9 acres of land with 32 acres of wetlands, 7 acres of source water protection area, approximately 8,000 feet of streams, and 8 vernal pools. This parcel is part of a much larger effort of the Conservancy to protect conservation lands in the “California Brook Natural Area” which includes 9,000 acres of undeveloped forestland and wetlands connecting West Hill in Keene with Pisgah State Park.		

Project Name: Coffin Brook Floodplain Restoration		
Applicant: Town of Alton	Watershed: Pemigewasset to Winnepesaukee River	Town: Alton
ARM Funds Disbursed: \$23,000.00	Matching Funds: \$35,707.00	
Description: Enhancement of 30 acres of a floodplain wetland system through the installation of a series of floodplain culverts in a specific area of the floodplain to restore hydrologic connectivity of the floodplain and prevent flooding into the road surface by allowing flow during storm events. Installation of selected 45” wide by 29” high elliptical culverts improves passage in the floodplain.		

### ARM Fund Projects Awarded Funds in FY 2012

In March 2011, DES announced the availability of ARM funds accrued in the following two service areas: Pemigewasset - Winnepesaukee River, and the Androscoggin River area. These two service areas had accumulated funds over a two year period and were required by administrative rules to be advertised for release. Pre-proposals were requested to be submitted by April. The full applications were reviewed by the ARM Fund Site Selection Committee (hereinafter "Committee") and representatives from the Army Corps of Engineers and US Environmental Protection Agency. The grant applications were reviewed during several meetings and field inspections. The Committee's recommendations were provided to the Army Corps of Engineers and the Wetland Council for final approval.

A project in New Hampton was awarded funds from the Winnepesaukee River watershed account and a project in Wentworth Location/Errol was awarded funds in the Androscoggin River watershed. Table 3 provides details of the past fiscal year's awards and a brief description of the gain in resources from each project.

**TABLE 3. ARM FUND AWARDS IN FY 2012**

<b>SERVICE AREA</b>	<b>PROJECT NAME/ APPLICANT</b>	<b>AWARD AMOUNT</b>	<b>FUNCTIONS AND VALUES GAINED</b>	<b>MITIGATION PROVIDED</b>
Pemigewasset - Winnepesaukee	Snake River, Baird Property/New Hampton	\$100,000	Wildlife habitat, sediment/nutrient retention and floodflow alteration.	8.1 acres of preservation that includes approx. 1,560 feet of frontage along the Snake River which flows from Lake Winona into Lake Waukewan.
Androscoggin	Greenough Ponds/Trust for Public Lands	\$89,000	Wildlife habitat and sediment/nutrient retention.	938 acres of land preservation in Wentworth Location including the entire shorefront of Greenough Pond and Little Greenough Pond.

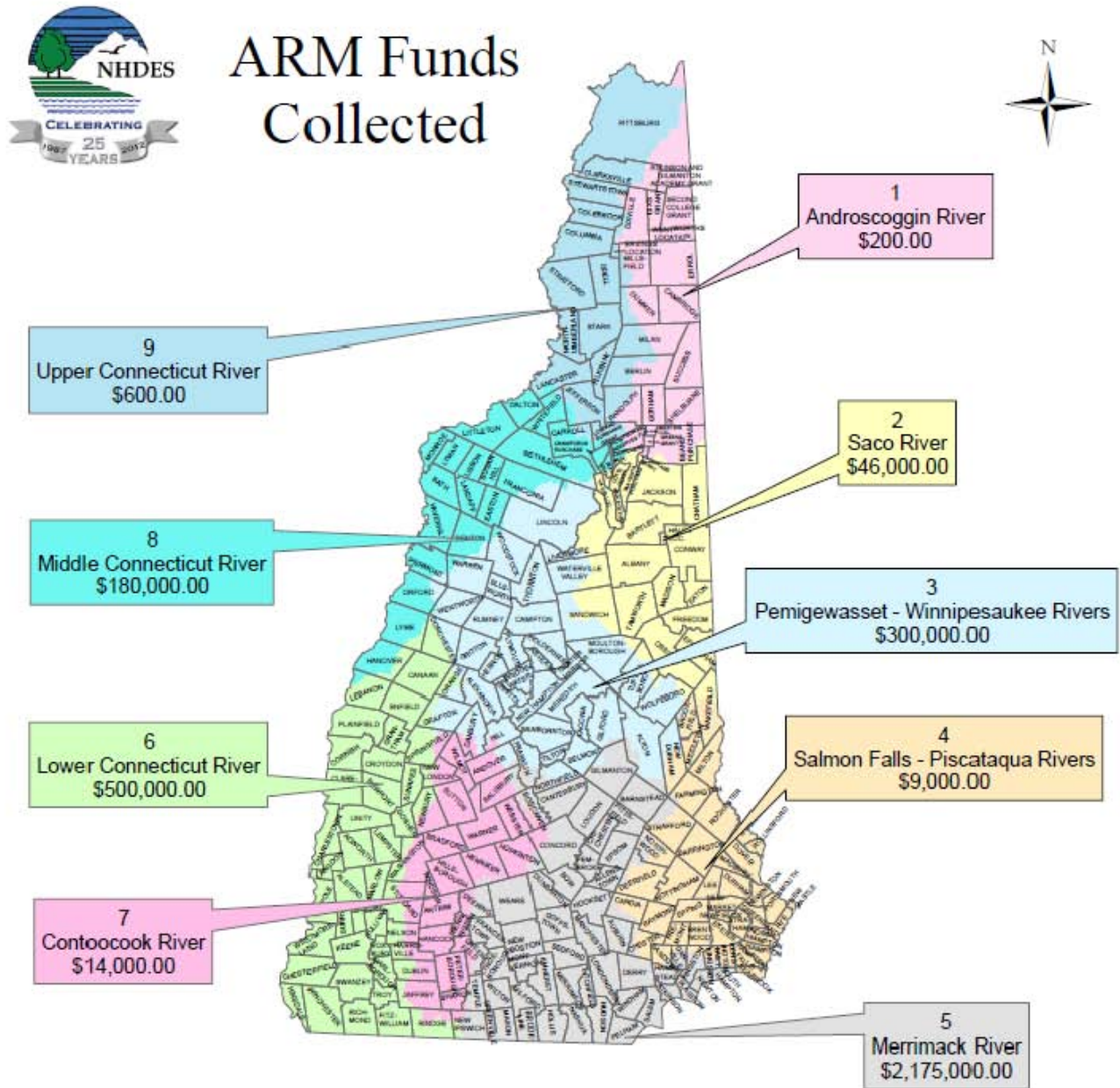
### Status of the Administrative Assessment Account

One component of an ARM Fund payment is an administrative assessment established by RSA 482-A:30, III and RSA 482-A:30-a,II. Such account assessments collected shall be used to support up to two full-time positions to administer the fund. During FY 2012, the assessment was 10% of a total payment. The revenue accrued during FY 2012 that supports one full-time position was \$207,600.

### Overall Status of the ARM Fund Account (as of June 30, 2012)

The FY 2012 ended with all of the ARM Fund service areas having accumulated funds. The amounts advertised in the 2012 grant round are included in Figure 1 below. The results of the 2012 grant round will be reported in the state fiscal year 2013 report. Table 4 describes revenues, expenses, encumbered funds and a balance by each service area.

**FIGURE 1. ARM FUNDS ADVERTISED IN 2012 ACCORDING TO SERVICE AREAS.**





**TABLE 4. STATUS OF ARM FUND ACCOUNTS ACCORDING TO SERVICE AREAS.**

<b>Service Areas</b>	<b>Beginning Balance (7/1/2011)</b>	<b>Revenues</b>	<b>Expenses</b>	<b>Encumbered</b>	<b>Ending Balance (6/30/2012)</b>
Androscoggin River	89,351.64	0.00	0.00	0.00	89,351.64
Saco River	46,223.29	0.00	0.00	0.00	46,223.29
Pemigewasett to Winnepesaukee Rivers	462,946.29	120,000.00	91,738.00	74,762.00	416,446.29
Salmon Falls to Piscataqua Rivers	1,595,433.90	0.00	752,889.90	832,921.10	9,622.90
Merrimack River	99,456.14	2,161,639.21	2,050.26	600.58	2,258,444.51
Lower Connecticut River	599,209.71	108,478.05	83,467.00	99,533.00	524,687.76
Contoocook River	7,414.03	8,444.95	0.00	0.00	15,858.98
Middle Connecticut River	165,998.47	29,950.12	0.00	0.00	195,948.59
Upper Connecticut River	13,036.43	0.00	12,313.00	0.00	723.43
<b>Total All Watersheds</b>	<b>3,079,069.9</b>	<b>2,428,512.33</b>	<b>942,458.16</b>	<b>1,007,816.68</b>	<b>3,557,307.39</b>